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10/089,085	04/10/2002	Takanori Nishimura	220709US6PCT	2937
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MONTAYA, OSCITA I	
			ART UNIT	PAPER NUMBER
			2623	
			NOTIFICATION DATE	DELIVERY MODE
			06/25/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/089,085	<b>Applicant(s)</b> NISHIMURA ET AL.	
	<b>Examiner</b> OSCHTA MONTOYA	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☒ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments with respect to claims 1-6 and 9 have been considered but are moot in view of the new ground(s) of rejection.
2. In response to applicants' argument (page 3 1<sup>st</sup> paragraph) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the open network is separate from the dedicated network) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
3. In response to applicants' argument (page 4) that using different protocols cannot be used to characterized different networks, the examiner contends that Garrity discloses an open network and a dedicated network as follows:

The **open network** is comprised of connections from content providers (102-106) to network 138 (figure 1) to schedule input gateway (204 – figure 2) to SMS and schedule data (210) to file output gateway (212), session information gateway (214), receiver entitlement gateway (216) to ASkyB uplink gateway (218), FSS uplink gateway(220) or internet multicast gateway (222) to the users.

The **dedicated network** is comprised of connections from (102-106) to network 138 (figure 1) to **stream I/O gateway (206)** to ASkyB uplink gateway

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(218), FSS uplink gateway (220), internet multicast gateway (222) to users.

Clearly, at least gateway (206) is used for the dedicated network/connection and not the open network/connection. The dedicated network uses IPSEC (figure 2, Col. 4, lines 33-58) which is the protocol that uses a dedicated connection (tunneling).

Although both the open and dedicated networks of Garrity share network (138) (and maybe other components), the actual connections for the open and dedicated networks are different. Moreover, Garrity's structure is similar to applicant's figure 1 which shows that the open network/connection is comprised of elements 104, 103 and 101 to 102 and the dedicated network/connection is comprised of elements 104 and 108 to 102. Clearly applicant's figure 1 shows that at least elements 104 and 102 are common for both the open and dedicated networks.

4. Applicants' argue (page 4 and 5) that what defines a dedicated network is the accessibility to the network. In this case Garrity teaches the use of IPSEC (figure 2, Col. 4, lines 33-58) which gives the user more control over the network, reliability on the distribution, and an authentication process to access the network meeting the requirements of a dedicated network according to the specification (page 38-41); therefore, the use of a protocol can be used to characterize a network as open or dedicated.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Garrity et al., US 6,230,205.

Regarding claim 1, Garrity discloses a content distribution method for making a reservation via an open network (content providers (102-106) to network 138 (figure 1) to schedule input gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users) to a reservation control apparatus for the use of a distribution server (Col. 4, lines 33-59, Col. 7, lines 1-8) that receives content sent from a distributor terminal apparatus (102, 104, and 106) via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users) and carries out stream distribution of said content to a client terminal apparatus via the open network (Col. 3, lines 32-57, fig. 1, Col. 4, lines 33-59), sending said content from

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said distributor terminal apparatus (102, 104, 106) to said distribution server (136) based on said reservation and thereby carrying out content distribution, said content distribution method comprising:

a reservation requesting step of sending, by the distributor terminal apparatus, reservation request information including a desired service time to distribute content using said distribution server (136) (Col. 8, lines 30-48) and restriction information on restrictions of the client terminal apparatus from said distributor terminal apparatus to said reservation control apparatus via open the network (Col. 4, lines 33-59, Col. 9, lines 20-44);

a content transmitting step of transmitting, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, the content from said distributor terminal apparatus to said distribution server via the dedicated network to carry out a content distribution based on said accepted reservation (Col. 4, lines 33-59, Col. 7, lines 1-9, lines 45-62);

a judging step of judging, when said client terminal apparatus requests said distribution server to distribute content via the open network, whether the distribution request of said client terminal apparatus should be accepted or not based on said restriction information (Col. 13, lines 31-60);

and a distributing step of carrying out a stream distribution, when the distribution request of said client terminal apparatus is accepted, of the content sent from said distributor terminal apparatus from said distribution server to said client

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terminal apparatus via the open network (Col. 4, lines 33-59, Col. 12, lines 42-60, Col. 13, lines 32-59).

Claim 9 is rejected on the same grounds as claim 1.

Regarding claim 2, Garrity discloses the content distribution method according to claim 1, further comprising a browsing judging step of judging, when the reservation for the use of said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and a storing step of storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the open network (Col. 4, lines 33-67).

Regarding claim 3, Garrity discloses the content distribution method according to claim 1, wherein when said restriction information includes information that a distribution request is accepted only for a client terminal apparatus authenticated through authentication processing using a password, said judging step judges whether the distribution request should be accepted or

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not based on the password sent from said client terminal apparatus (Col. 10, lines 28-57).

Regarding claim 4, Garrity discloses the content distribution method according to claim 1, further comprising an authentication information transmitting step of transmitting, when said restriction information includes information indicating the contact address of the client user of the client terminal apparatus for which a content distribution is accepted, authentication information to said contact address of the client user via the open network (Col. 4, lines 33-59, Col. 9, lines 25-31), and wherein in said judging step, it is judged whether the authentication information sent from said client terminal apparatus matches the authentication information sent in said authentication information transmitting step or not and accepts the distribution request only when the two authentication information pieces match (fig. 6, Col.8, lines 53-64).

Regarding claim 5, Garrity discloses a reservation control apparatus, comprising:  
means for controlling reservations for live distributions of content using a distribution server that carries out stream distributions of said content, which is received via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), to a client



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terminal apparatus via an open network (content providers (102-106) to network 138 (figure 1) to schedule input gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users),

receiving means for receiving reservation request information, from a distributor terminal apparatus, including a desired service time for a content distribution using said distribution server (Col. 4, lines 33-59, Col. 8, lines 30-48) and restriction information about restrictions on said client terminal apparatus sent from a distributor terminal apparatus requesting a live distribution of content via the open network (Col. 4, lines 33-59, Col. 9, lines 20-64);

browsing judging means for judging, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and

storing means for storing, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the first network (Col. 4, lines 58-67).

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Regarding claim 6, Garrity discloses a computer-readable medium storing a program to be executed by a reservation control apparatus, said program comprising:

control processing that controls reservations for live distributions of content using a distribution server that carries out a stream distribution of said content, which is received via a dedicated network (content providers (102-106) to network 138 (figure 1) to stream I/O gateway (206) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users), to a client terminal apparatus via an open network (content providers (102-106) to network 138 (figure 1) to schedule input gateway (204) to SMS and schedule data (210) to file output gateway, session information gateway, receiver entitlement gateway (212-216) to ASkyB uplink gateway, FSS uplink gateway, internet multicast gateway (218-222 figure 2) to the users),

reception processing that receives reservation request information including a desired service time for a content distribution (Col. 8, lines 30-48) and restriction information about restrictions on said client terminal apparatus sent from a distributor terminal apparatus requesting a live distribution of content using said distribution server via the open network (Col. 4, lines 33-59, Col. 9, lines 20-64); browsing judgment processing that judges, when the reservation for a content distribution using said distribution server during said desired service time included in said reservation request information is accepted, whether content distribution program information about content distribution based on said

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reservation should be made browsable or not based on said restriction information (Col. 4, lines 44-51); and storing processing that stores, when it is judged that said content distribution program information should be made browsable, said content distribution program information in a predetermined storage area of said reservation control apparatus in a manner browsable via the open network (Col. 4, lines 33-67).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OSCHTA MONTTOYA whose telephone

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number is (571)270-1192. The examiner can normally be reached on Monday/Friday 7:30 to 5:00 off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OM

**/Christopher Grant/  
Supervisory Patent Examiner, Art Unit 2623**